

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, *et al.*,

Plaintiffs,

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

No. C 04-0098 SI, No. C 04-0099 SI

**ORDER ADOPTING SPECIAL
MASTER'S APRIL 7, 2008 ORDER
REGARDING PARKER'S STANDING
AND TIMELINESS OF FEE PETITIONS;
SETTING SCHEDULE FOR
RESOLUTION OF PENDING MATTERS**

On April 7, 2008, the Special Master issued an order holding that Kay McKenzie Parker had standing to seek statutory fees in the Alvarado and Boswell cases, and that the fee petitions Ms. Parker had filed were timely. Ms. Parker has filed a motion to adopt the Special Master's order, and defendant has filed a motion to partially reject or reverse the Special Master's order. Plaintiffs have not filed any pleadings in response to the Special Master's order, or to the motions filed by Ms. Parker or defendant.

Pursuant to Federal Rule of Civil Procedure 53(f), the Court hereby ADOPTS the Special Master's April 7, 2008 order (Docket No. 1062). As an initial matter, the Court rejects defendant's assertion – made without any citation or justification – that the Special Master ignored a number of defendant's pleadings. The Special Master's Order references and discusses a number of these documents and specifically addresses, and rejects, contentions advanced by defendant. Further, the record demonstrates that the Special Master reviewed extensive briefing from the parties and Ms. Parker, and conducted several hearings on the matter. Further, the Court finds that the Special Master correctly applied the relevant and controlling legal authority to determine that Ms. Parker's fee petitions are timely, and that Ms. Parker has standing to seek statutory fees pursuant to FEHA.

Accordingly, the Court GRANTS Ms. Parker's motion to adopt the Special Master's order

1 (Docket No. 1087) and DENIES defendant's motion to partially reject or reverse the Special Master's
2 Order. (Docket No. 1085). The Special Master shall now determine the reasonableness of the fee
3 petitions in the Alvarado and Boswell cases, and the Special Master may direct the submission of
4 supplemental briefs and/or hold additional hearings as necessary.

5 With regard to the seven plaintiffs who have settled with defendant and as to whom defendant
6 has interplead 50% of the settlement funds with the Court ("settlement plaintiffs"), the Court directs as
7 follows: within 15 days after finality in this Court of this order, defendant shall renew its declaratory
8 relief motion as to the settlement plaintiffs (Docket No. 976), or shall inform the Court and the parties
9 that the motion will not be renewed. If this Court's decision on declaratory relief as to the settlement
10 plaintiffs allows Ms. Parker to apply for fees, then within 30 days after that decision is final, or within
11 30 days after FedEx informs the Court and the parties that it will not renew its declaratory relief motion,
12 Ms. Parker shall file with this Court her motion for attorney's fees and expenses as to the settlement
13 plaintiffs. That motion will be briefed according to the schedule set forth in the Civil Local Rules, and
14 will be submitted without oral argument unless this Court informs the parties that a hearing is necessary.
15 This Court will then issue an order on Ms. Parker's claim for attorney's fees and expenses as to the
16 settlement plaintiffs, as well as all pending claims to the interplead funds.

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18 **IT IS SO ORDERED.**

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20 Dated: June 5, 2008

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23 SUSAN ILLSTON
24 United States District Judge
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United States District Court
For the Northern District of California

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